

No. 24-10095-P (Capital Case)
IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

KENNETH EUGENE SMITH,

Plaintiff-Appellant,

v.

COMMISSIONER, ALABAMA DEPARTMENT
OF CORRECTIONS, and WARDEN,
HOLMAN CORRECTIONAL FACILITY,

Defendants-Appellees.

On Appeal from the United States District Court
for the Middle District of Alabama (Northern Division)
No. 2:23-cv-00656 (Hon. R. Austin Huffaker, Jr.)

**PLAINTIFF-APPELLANT'S RESPONSE TO DEFENDANTS-APPELLEES'
MOTION TO EXPEDITE BRIEFING**

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Appeal No. 24-10095-P

CERTIFICATE OF INTERESTED PERSONS

Undersigned counsel certify that the following persons may have an interest in the outcome of this case:

1. Alverson, Gary W. - Counsel for the State of Alabama at trial;
2. Anderson, Kathryn D. - Counsel for the State of Alabama on direct appeal;
3. Anderson, Richard D. - Counsel for the Respondents during federal habeas proceedings and for Defendants-Appellees below;
4. Bahakel, Alfred - Retired Circuit Judge of Jefferson County
5. Bearden, Joshua S. - Counsel for the State of Alabama during Rule 32 proceedings;
6. Burkett, Ashley - Counsel for Mr. Smith;
7. Ciliberti, Angelique A. - Counsel for Mr. Smith;
8. Dunn, Jefferson S. - Former Commissioner of the Alabama Department of Corrections;
9. Forrester, Nathan A. - Counsel for the State of Alabama on direct appeal;
10. Grass, Robert M. - Counsel for Mr. Smith
11. Hamm, John Q. - Commissioner of the Alabama Department of Corrections and Defendant-Appellee;
12. Hammonds, Tina Coker - Counsel for the State of Alabama during Rule 32 proceedings and for Respondents during federal habeas proceedings;
13. Hensley III, John Coleman - Counsel for Defendants-Appellees below;
14. Horowitz, Jeffrey H. - Counsel for Mr. Smith;

15. Huffaker, Jr., The Honorable R. Austin - United States District Judge for the Middle District of Alabama;
16. Hughes, Beth Jackson - Counsel for the State of Alabama on direct appeal and for Defendants-Appellees below;
17. Johnson, Andrew B. - Counsel for Mr. Smith;
18. Johnson, Christopher M. - Counsel for Mr. Smith at trial;
19. Johnson, Henry M. - Counsel for the State of Alabama on direct appeal and for Defendants-Appellees below;
20. Kallon, Abdul K. - Retired United States District Judge for the Northern District of Alabama;
21. Kenny, Polly Spencer - Counsel for Defendants-Appellees below;
22. Kerschner, David A. - Counsel for Mr. Smith;
23. King, Troy - Former Alabama Attorney General;
24. Marshall, Steve - Alabama Attorney General;
25. Martin, George - Counsel for the State of Alabama on direct appeal;
26. Monk III, Richard H. - Counsel for Mr. Smith during Rule 32 proceedings;
27. Newsom, The Honorable Kevin C. - Former Alabama Solicitor General;
28. Norby, Charlotta - Counsel for Mr. Smith at trial and on direct appeal;
29. Nunnally, Michael A. - Counsel for the State of Alabama during Rule 32 proceedings;
30. Parker, John Forrest - Co-Defendant;
31. Pryor, Jr., The Honorable William H. - Former Alabama Attorney General;

32. Raybon, Terry – Warden, William C. Holman Correctional Facility and Defendant-Appellee;
33. Samberg, Peter - Counsel for Mr. Smith during Rule 32 proceedings;
34. Sennett, Charles - Co-Defendant;
35. Sennett, Elizabeth Dorlene - Victim;
36. Sharp, Jr., William G. - Former Commissioner of the Alabama Department of Corrections;
37. Shelton, Jordan Shay - Counsel for Defendants-Appellees below;
38. Singleton, Palmer - Counsel for Mr. Smith at trial and on direct appeal;
39. Smith, Kenneth Eugene - Plaintiff-Appellant;
40. Tompkins, The Honorable N. Pride - Retired Circuit Judge of Colbert County;
41. Williams, Billy Gray - Co-Defendant.

No publicly traded company or corporation has an interest in the outcome of this appeal.

Plaintiff-Appellant Kenneth Eugene Smith submits this response to Defendants-Appellees' Motion to Expedite Briefing (Doc. 7). Mr. Smith agrees that the Court should order expedited briefing and consents to the schedule proposed in the motion if that is acceptable to the Court. *See* Doc. 7 at ¶ 7. Mr. Smith will be requesting that the Court hear oral argument and his counsel will make themselves available at the Court's convenience for that purpose if the Court grants the request.

Respectfully submitted,

s/Andrew B. Johnson

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CERTIFICATE OF COMPLIANCE

This response complies with the type-volume litigation of Fed. R. App. P. 27(d)(2)(A) because it contains 78 words, excluding the parts of the response exempted by Fed. R. App. P. 32(f). This brief complies with the typeface requirements of Fed. R. App. P. 27(d)(1)(E) and 32(a)(5) and the type style requirements of Fed. R. App. P. 32(a)(6) because it has been prepared in a proportionally spaced typeface using Word, in 14-point Times New Roman font.

s/Andrew B. Johnson
Andrew B. Johnson

Dated: January 12, 2024

CERTIFICATE OF SERVICE

I certify that, on January 12, 2024, I filed Plaintiff-Appellant Kenneth Smith's Response to Defendants-Appellees' Motion to Expedite Briefing with the Clerk of the Court using the NextGen CM/ECF system, which will automatically send email notification to all counsel of record.

Andrew B. Johnson

Dated: January 12, 2024